

SOUTHERN DISTRICT  
OF INDIANA  
LAURA A. BRIGGS  
CLERK

**Defendant.**

) ) ) ) ) ) ) )

**) Cause No.:**

**1 : 11-cv- 0846 WTL -MJD**

Plaintiff Sherry Dowers (“Plaintiff” or “Dowers”), by counsel, brings this action against Noblesville Schools (“Defendant” or “Noblesville Schools”) for violations of the Americans with Disabilities Act, 42 U.S.C. §12101, et seq., (“ADA”), and shows as follows:

1. Dowers is an individual who resides in Hamilton County, Indiana. She suffers from asthma, chronic allergies, chronic sinusitis and other related ailments. Her condition substantially limits her in one or more major life activities.

## **JURISDICTION AND VENUE**

3. This Court has subject matter jurisdiction over the Defendant pursuant to 28 U.S.C. §1331 because Plaintiff asserts a claim arising under the ADA.

4. At all times relevant to this action, Dowers was an "employee" within the meaning of 42 U.S.C. §12111(4).

5. Defendant is an “employer” within the meaning of 42 U.S.C. §12111(5).

6. **Dowers is a “qualified individual with a disability” as defined by the ADA.**

7. Dowers satisfied her obligation to exhaust her administrative remedies by timely filing a Charge of Discrimination with the United States Equal Employment Opportunity Commission ("EEOC") alleging discrimination based on disability. Dowers received a Notice of Right to Sue Within 90 Days, and timely brings this action within ninety (90) days of receipt thereof.

8. This Court is a proper venue for this action because the Defendant may be found in this District and a substantial portion of the challenged conduct occurred in this District.

### **FACTUAL ALLEGATIONS**

9. Plaintiff began working for Noblesville Schools in approximately August 2006.

10. Plaintiff was diagnosed with and has received ongoing treatment for asthma, chronic allergies, chronic sinusitis, and a variety of other related ailments which substantially limit her ability to breathe, work, and sleep.

11. In approximately August 2010, Plaintiff's doctor identified that the absence of HVAC service in her place of work significantly impaired Plaintiff's ability to breathe and work, and the doctor's treatment prescription was that Plaintiff needed to work in an air conditioned environment.

12. Plaintiff presented information regarding her asthma, allergies, sinusitis, and severe breathing problems to Noblesville Schools, specifically to her supervisor, Mr. Bragg.

13. Upon receiving the information regarding Plaintiff's disability, Defendant began participation in the interactive process and began to investigate possible accommodations for Plaintiff.

14. Defendant's agent and Plaintiff's supervisor, Mr. Bragg, indicated to Plaintiff that no air conditioned shifts were available to accommodate her disability, but did not propose an alternative accommodation at this time.

15. After Defendant told her that no accommodation could be made for her disability, Plaintiff was compelled to resign in order to protect her health.

16. Upon receipt of Plaintiff's resignation, Mr. Bragg pleaded with Plaintiff to stay, and offered relocation to attempt to accommodate Plaintiff's disability.

17. Plaintiff agreed to try the relocation mentioned in Paragraph 16, but discovered only hours into her first shift at the new location that it posed no less risk, and left the shift.

18. After leaving the shift mentioned in Paragraph 17, Plaintiff emailed Mr. Bragg explaining that the relocation did not accommodate her disability, and requested that he contact Plaintiff for further discussion.

19. The next communication Plaintiff received from Noblesville Schools was a letter requesting her resignation, and notifying her that if she did not resign from her position, she would be involuntarily terminated and ineligible for reemployment.

20. The Equal Employment Opportunity Commission granted Plaintiff the Right to Sue in a letter dated March 31<sup>st</sup>, 2011.

#### **VIOLATIONS OF THE AMERICANS WITH DISABILITES ACT**

21. Plaintiff incorporates Paragraphs 1 – 20 of this Complaint by reference.

22. Defendant, in violation of the ADA, failed to provide a reasonable accommodation for Plaintiff's disability which would allow Plaintiff to perform the essential functions of her job.

23. Defendant, in violation of the ADA, failed to identify reasonable accommodations for Plaintiff's disability which would not cause undue hardship.

24. Defendant's actions were intentional, willful, and/or undertaken in reckless disregard of Dower's rights as protected by the ADA.

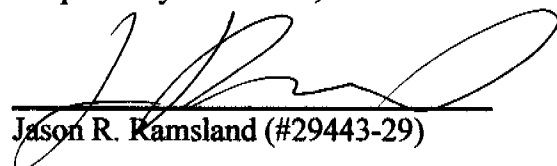
25. Dowers has suffered damages as a result of Defendant's unlawful actions.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests that this Court find in her favor and provide her with the following relief:

- a. An Order awarding Plaintiff her unpaid wages;
- b. An Order awarding Plaintiff compensatory damages;
- c. An Order reinstating Plaintiff to her position with Noblesville Schools;
- d. An Order requiring that Defendant make reasonable accommodation for Plaintiff's disability;
- e. An Order enjoining Defendant from committing future violations of the ADA;
- f. An Order awarding pre- and post-judgment interest at the highest rate allowable by law;
- g. An Order awarding Plaintiff her attorney's fees;
- h. An Order granting such other and further relief as may be necessary and appropriate.

Respectfully Submitted,

  
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Jason R. Ramsland (#29443-29)

RAMSLAND LAW  
303 John Street  
Carmel, Indiana 46032

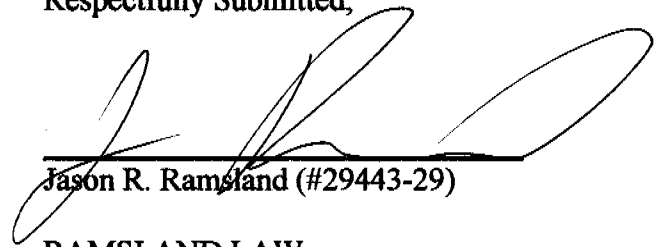
Telephone: 317.670.8548  
jason@ramslandlaw.com

Attorney for Plaintiff

**DEMAND FOR JURY TRIAL**

Comes now the Plaintiff, Sherry Dowers, by counsel, and demands a trial by jury on all issues deemed so triable.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Jason R. Ramsland', is written over a horizontal line.

Jason R. Ramsland (#29443-29)

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Attorney for Plaintiff